

SENATE BILL 1110

By Overbey

AN ACT to amend Tennessee Code Annotated, Title 42, Chapter 3; Title 42, Chapter 4; Title 42, Chapter 5; Title 42, Chapter 6 and Title 67, Chapter 4, relative to airports.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 42-3-111, is amended by deleting the section in its entirety and by substituting instead the following:

(a) An authority may borrow money for any of its corporate purposes and issue its bonds therefor, including refunding bonds, in such form and upon such terms as it may determine, payable out of any revenues of the authority, including grants or contributions from the federal government or other sources. Any such bonds must be sold at public sale at not less than par. Revenue bonds may be issued for the above purposes and the authority may pledge as security for such bonds all or any portion of the landing fees, concession fees, rents, charges, or any other revenues derived from the operation of the airport. Such revenue bonds shall be issued in accordance with the applicable provisions of title 9, chapter 21; provided, that any such fees, rents, or charges so pledged that are fixed and established pursuant to the provisions of a lease or contract shall not be subject to revision or change except in such manner as is provided in such lease or contract. Any bonds of any authority issued pursuant to this chapter that are payable, as to principal and interest, solely from revenues of an airport or air navigation facility (and they shall so state on their face) shall not constitute a debt of any municipality, the state, or any political subdivision thereof other than the authority, and shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction. Neither the commissioners of an authority nor any

person executing such bonds shall be liable personally thereon by reason of the issuance thereof.

(b) If the commissioners or officers of an authority whose signatures appear on any bonds or coupons cease to be such commissioners or officers after authorization but before the delivery of the bonds, then the signatures shall nevertheless be valid and sufficient for all purposes, the same as if the commissioners or officers had remained in office until delivery. Notwithstanding any law to the contrary, any bonds issued pursuant to this chapter shall be fully negotiable.

(c) Any bond reciting in substance that it has been issued by an authority pursuant to this chapter and for a purpose or purposes authorized to be accomplished by this chapter shall be conclusively deemed, in any suit, action, or proceeding involving the validity or enforceability of the bond or the security therefor, to have been issued pursuant to such provisions and for such purpose or purposes.

(d) Bonds issued by an authority pursuant to this chapter are declared to be issued for an essential public and governmental purpose, and, together with interest thereon and income therefrom, shall be exempt from all taxes.

SECTION 2. Tennessee Code Annotated, Section 42-4-109, is amended by deleting the section in its entirety and by substituting instead the following:

(a)

(1) An authority may borrow money for any of its corporate purposes and issue its revenue bonds therefor, including revenue refunding bonds, in such form and upon such terms as it may determine, payable out of any revenues of the authority, including grants or contributions from the federal government or other sources, which bonds may be sold at public or private sale. Revenue bonds may be issued for the above purposes and the authority may pledge as

security for such bonds all or any portion of the landing fees, concession fees, rents, charges, or any other revenues derived from the operation of the airport. Further, the payment or purchase of such revenue bonds, if issued for an essential public purpose, may be additionally secured, in whole or in part, in the manner herein provided, by a pledge of the full faith and credit and unlimited taxing power of the creating municipality or any participating municipality. Such revenue bonds or revenue refunding bonds, or both, shall be issued in the manner provided for a local government in title 9, chapter 21; provided, that any such fees, rents, or charges so pledged that are fixed and established pursuant to the provisions of a lease or contract shall not be subject to revision or change except in such manner as is provided in such lease or contract. Any bonds of any authority issued pursuant to this chapter which are payable, as to principal and interest, solely from revenues of an airport or air navigation facility (and they shall so state on their face) shall not constitute a debt of any municipality, the state, or any political subdivision thereof, other than the authority or any municipality guaranteeing the payment or purchase thereof in the manner herein provided, and shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction. Neither the commissioners of any authority nor any person executing such bonds shall be liable personally thereon by reason of the issuance of such bonds.

(2) An authority, creating municipality, or any participating municipality may enter into interest rate exchange agreements with respect to any issue of revenue bonds or revenue refunding bonds with any person under such terms and conditions as the authority, creating municipality, or any participating municipality may determine, including, without limitation, provisions permitting the

authority, creating municipality, or participating municipality to indemnify or otherwise pay any person for any loss of benefits under such agreement upon early termination thereof or default under such agreement.

(b) If the commissioners or officers of an authority whose signatures appear on any bonds or coupons shall cease to be such commissioners or officers after authorization but before the delivery of the bonds, then the signatures shall nevertheless be valid and sufficient for all purposes, the same as if the commissioners or officers had remained in office until delivery. Notwithstanding any law to the contrary, any bonds issued pursuant to this chapter shall be fully negotiable.

(c) Any bond reciting in substance that it has been issued by an authority pursuant to this chapter and for a purpose or purposes authorized to be accomplished by this chapter shall be conclusively deemed, in any suit, action, or proceeding involving the validity or enforceability of the bond or the security therefor, to have been issued pursuant to such provisions and for such purpose or purposes.

(d) Bonds issued by an authority pursuant to this chapter are declared to be issued for an essential public and governmental purpose, and together with interest thereon and income therefrom, shall be exempt from all state, county, and municipal taxation except for inheritance, transfer, and estate taxes, and except as otherwise provided in by law.

(e)

(1) The governing body of a creating municipality, or any participating municipality, may by resolution pledge the full faith and credit and unlimited taxing power of the municipality as guarantor to the payment of the principal of, premium, if any, and interest on, bonds of an authority, the purchase price of any such bonds subject to optional or mandatory tender for purchase, or the

reimbursement or repayment to any bank or financial institution under any agreement providing for any draw, borrowing, advance, or payment to be made for the payment of such principal, premium, interest, or purchase price or the payment of amounts payable under any interest rate exchange agreement.

(2) Prior to any meeting where such guarantee will be considered by the governing body of a creating or participating municipality, a notice shall be published at least ten (10) days in advance of such meeting in a newspaper of general circulation within the creating or participating municipality, describing the matter to be considered and containing an estimate of the dollar amount of any contingent liability proposed to be undertaken by the creating or participating municipality.

(3) In the event of any such pledge of full faith and credit and unlimited taxing power of the municipality, any holder or holders of the bonds, including a trustee or trustees for holders of such bonds, any financial institution providing any agreement on the payment of principal, premium, interest, purchase price on such bonds, or any party to any interest rate exchange agreement with respect to such bonds, shall have the right, in addition to all other rights, by mandamus or other suit, action, or proceeding in any court of competent jurisdiction to enforce such holder's rights against the municipality so pledging, and the governing body of such municipality and any officer, agent, or employee of such municipality, including, but not limited to, the right to require the municipality and governing body and any proper officer, agent, or employee of the municipality, to assess, levy, and collect taxes and other revenues and charges adequate to carry out any agreement as to, or pledge of, such taxes, revenues, and charges. The taxes herein authorized to be pledged shall be levied without limit as to rate or

amount upon all taxable property within the municipality, and all such taxes to be levied are hereby declared to have been levied for county and corporation purposes, respectively, within the meaning of the Constitution of Tennessee, Article II, § 29.

SECTION 3. Tennessee Code Annotated, Section 42-5-115, is amended by deleting the section in its entirety and by substituting instead the following:

The cost of planning, acquiring, establishing, developing, constructing, enlarging, improving, maintaining, or equipping an airport or air navigation facility, or the site therefor, including buildings, structures, and other facilities incidental to the operation thereof or relating thereto, the acquisition of aviation easements, and the acquisition or elimination of airport hazards, may be paid for wholly or partly from the proceeds of the sale of bonds or other obligations of the municipality, as the governing body of the municipality shall determine. The bonds or other obligations may be issued by a county and by an incorporated city or incorporated town; provided, that any landing fees, concession fees, rents, charges, or any other revenues derived from the operation of an airport, pledged as security for such bonds, that are fixed and established by the provisions of a lease or contract, shall not be subject to revision or change during the term of such lease or contract except in such manner as is provided in such lease or contract.

SECTION 4. This act shall take effect July 1, 2009, the public welfare requiring it.